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## OPERATIONAL STRATEGIES FOR PUBLIC ORDER POLICING: A SOUTH AFRICAN CASE STUDY

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### ABSTRACT

*In policing circles, 1994 will be remembered as the time when great changes occurred in the South African Police (SAP) (newly renamed the South African Police Service). A paradigm shift was made towards policing within a human rights culture. This period was a political watershed for South Africa. At the time an almost 'seismic' shift can be said was being made from a repressive police state to a democracy, which required the application of democratic policing principles and values. Since policing is and remains one of the most important mechanisms in social control, a meaningful balance needed to be found between persuasive and enforced control in the new South Africa. From 1976 to 2015 the conduct of the Public Order Police (POP) has been questioned by the public and four Commissions of Inquiry. The aim of this article was to examine the policy and legislative framework, the recommendations of the four Commissions of Inquiry, and to conceptually analyse operational strategies for public order policing. It was found that the policy and legislative framework, together with the recommendations of the Commissions of Inquiry, provided details regarding structure and functioning within the constraints of the Constitution and the law. This article recommends operational strategies to strengthen public order policing.*

**Keywords:** *Mass action, operational strategies, public order policing, violent strikes, protests, sports events*

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### INTRODUCTION

In terms of section 205(3) of the Constitution of the Republic of South Africa, since 1996, the Public Order Policing (POP) Unit from the South African Police Services (SAPS) has been responsible for the combating of crime and maintaining public order through crowd management. There are currently twenty eight public order policing units nationally, which include twenty-seven provincially based units and one mobile reserve unit consisting of personnel who are always readily available for deployment (South African Police Service, 2015). Presently, South Africa is confronted with violent strikes, mass actions, xenophobic attacks and protests, together with an increase in violent crime rates. Whenever the members of the Public Order Policing Unit or other member from the South African Police Service are involved in crowd management and control, whether violent or not, there are always questions raised on the appropriateness of the police response. Such questions include whether the police could have prevented injuries, damage to property and loss of life if they had been better prepared, reacted more quickly, acted more forcefully and brought the disorderly situation under control (Albrecht, Dow, Plecas, & Das, 2015:25). It would be difficult to answer these questions irrespective of the context, without knowing the mood and emotions of the crowds, the organisers of such events or the police in any given situation. The aim of this article was to conceptually analyse strategies for public order policing. The author examined the policy and legislative framework, current literature and the recommendations of all four South African Commissions of Inquiry and conceptually analysed operational strategies to strengthen the SAPS in public order policing.

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## RESEARCH METHODOLOGY

A qualitative approach using the case study design was used. The case study design is based purely on a documentary study, as well as the author's own experience as a police officer in the South African Police Service, where he was operationally involved in the management and control of crowds as the area commissioner of the Marico area, in Rustenburg (including the district of Marikana). The research objectives of this study were to:

- provide a clear understanding of the South African Policy and legislative framework;
- examine the recommendations made by the South African Commissions of Inquiry on the management and control of crowds; and
- conceptually analyse operational strategies for public order policing.

## FORMS OF CROWD MANAGEMENT

According to Madinsen and Eck (2008, 2011), student parties, political and social protests and spectator violence at sports and entertainment events are some of the forms of crowds that international policing agencies have to police. The South Africa classification of different forms of crowds is different from the international context. The South African Police Service POP Units use the Incident Registration Information System (IRIS) as a database to record and store incident information of crowd management. The IRIS has a data base for five main classes of incidents, all associated with public order policing interventions. They are, namely:

- i) crowd (peaceful);
- ii) crowd (unrest);
- iii) crime prevention;
- iv) support; and
- v) unrest (other) (which, for example, could include unrest/violence such as taxi wars, gang wars, drug wars).

There is a sixth class, introduced for the 2010 World Cup and not used much since (Alexandra, Runciman, & Maruping, 2015:16). This class refers to the South African Police Service having to police at peaceful assemblies, gatherings, meetings including sports and entertainment meetings and unrest related labour disputes, including the mining sector, transport and education sectors and community protests (South African Police Service, 2015). The following are examples of some forms of crowds that the police have to manage both nationally and internationally on a daily basis. On 5 July 1913, a miners' strike erupted on the Witwatersrand region of the Gauteng Province in South Africa. About 19 000 miners took part in the mass action that turned violent. The then South African Police (SAP) could not handle the situation alone and the military was called in at the request of the SAP. The situation returned to normal by the end of August 1913. During January 1914, another strike took place on Witwatersrand (Gauteng), involving the railways and the mines. Police officers from all over the country had to be deployed. Once again, military action helped to quell the labour action (South African Police Services: South African History Online, 2012).

Violence at sporting events was recorded in the period of the Greek Empire and the Roman Empire. On 16 July 1916, the first accurately recorded incident at a sporting event took place in Buenos Aires, Argentina; supporters and the police came into conflict because the final match between Argentina and Uruguay had to be postponed due to the fact that the stadium could accommodate only 20 000 of the 40 000 willing spectators (Madensen & Eck, 2008).

During the 1970s and 1980s, a crisis of legitimacy in policing in the United Kingdom, particularly poor relations with minority groups, was illustrative of a growing mistrust among

the general public regarding the role of state institutions in civil society. The urban disorders of this period took the form of anti-police and anti-government protests that exposed bad relations between the police and the communities they served. Continued civil unrest highlighted the changing relationship between an increasing diverse society and an unreformed police force. Initially reported as race riots, the civil disturbances of the early part of this period initiated a renewed focus on the police's use of their discretion and power (Hall, Critcher, Jefferson, Clarke & Roberts, 1978).

Riots and public disorder broke out in towns across the United Kingdom after the shooting on 4 August 2011 of Mark Duggan by a police officer. Immediate riots broke out on 6 August 2011 in Tottenham after a crowd of 100 people attended a peaceful demonstration at a police station to protest the killing. Soon the riots spread to Greater Manchester, London, Nottinghamshire, West Midlands and West Yorkshire. The violence continued until 10 August 2011, during which time considerable damage was done (HMIC, 2011:28).

On 5 January 2011 a popular uprising took place in Egypt. The uprising started slowly but grew steadily and Tahrir Square became the focal point of the uprising. People came to protest against the government and demanded that President Mubarak and his government resign. The police were sent in to quell the uprising and clashed with protestors. In total, 840 people were killed and 6 467 were injured during the uprising (Sarhan, Dahaba, Marco & Ayman Salah, 2012).

During 2011, Andries Tatane a South African activist, was shot during a protest, held to address poor service delivery by the local government in Ficksburg, Free State, South Africa. He was shot at close range with a rubber bullet by the police and later died of his injuries (Afrika & Hofstatter, 2015).

During August 2012, 34 striking miners were killed at the platinum mine near Marikana in the North-West Province, South Africa (Afrika & Hofstatter, 2015).

## **POLICY AND LEGISLATIVE FRAMEWORK**

Since the early 1990s, unresolved political, economic, social and cultural issues have resulted in some members of the public expressing themselves through public gatherings, marches, and sometimes public protests. However, even where the underlying causes of public protest actions are meritorious, the government has a constitutional obligation to maintain law and order in terms of the South African Constitution Act 108 of 1996, South African Police Service Act 68 of 1995 and the Regulations of the Gatherings Act 205 of 1993 (RGA). The RGA provides for the responsibilities of organisers and other stakeholders of these gatherings. However, there have been some instances where organisers' responsibilities have been abdicated, which have led to criminality. These are mainly perpetrated by criminal elements who make use of public gatherings and protests to serve their own objectives and purposes.

### **The South African Constitution, Act 108 of 1996**

The Constitution of the Republic of South Africa clearly defines the functions of the police to include the following: *"to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law"*. The South African Constitution is premised on a rights-based approach. It sets out these rights in a Bill of Rights which, among other rights, provides for the right to protest and demonstrate as one of the fundamental rights enshrined in the Constitution.

Chapter 2, section 17 of the Constitution provides that: *"Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions"* (South Africa, 1996). These rights enshrined in the Constitution must be protected by the state, and it provides demonstrators the right to freedom of assembly and association. The provisions are meant to allow people the right to take part in demonstrations where protestors are unarmed (Ministry of Police, 2011).

In respect of the vested rights granted by the Constitution, the fact is that not all public protests can proceed unrestricted because the merits of public protest actions are not always clear cut. Therefore, South Africa has also developed domestic laws, policies and regulations within the framework of international laws on the 'right to public gatherings', including human rights standards (Ministry of Police, 2011).

### **South African Police Service Act, Act 68 of 1995**

There is an obligation placed on the National Commissioner to establish a Public Order Policing Division in terms of the SAPS Act (68 of 1995). Upon establishing this Public Order Policing Division, the SAPS developed and implemented the RGA followed by Standing Order 262 on Crowd Management (South Africa, 1995; Kinnes, 2013).

### **The Regulation of the Gatherings Act, Act 205 of 1993**

This Act makes provision for regulating gatherings and events and the observation of certain protocols with respect to the organisers, police and the local municipality. The Act provides for particular roles for the convenor of demonstrations or gatherings, the responsible officer on the part of the police, and the responsible person at the local authority. The Act envisages a consultation between the three parties prior to the march or event and the convenor must give notice of the event at least seven days prior to the event or gathering. It is prudent to point out that this notification to the municipality is not a request for permission to demonstrate or gather. It is a notification *per se*. In terms of the legislation, convenors are required to give notice only to the local authority. If less than 48 hours' notice is given to the responsible officer(s), the gathering may be prohibited from taking place. A meeting known as the 'Golden Triangle meeting' is usually convened to consider the logistics of the gathering such as the routes, number of marchers and time of the event. In terms of this section, the Golden Triangle meeting is made up of the convenor of the demonstration, the responsible officer of the SAPS and the responsible person at the local municipality. Their function is to discuss the logistics of the march and agree on the route that the marchers will take; the time of the march; the provision of marshals to control the crowd, and who in the municipality will accept the petition or memorandum. If it comes to the attention of police officers that participants of a march, demonstration or gathering intend causing serious injury or disruption, the marchers may be dispersed (South Africa, 1993; Kinnes, 2013).

During 2006, this legislation was tested by the author during a municipality strike at Rustenburg. An important lesson that was learnt was that appropriate social interaction and negotiations with the organisers/ convenors will help in achieving a peaceful strike action.

### **SAPS Standing Order No. 262 on Crowd Management**

Standing Order 262 provides the police with a standard procedure of responding to crowds. It states in a clear and coherent manner that the use of force must be avoided at all costs and members deployed for the operation must display the highest degree of tolerance. This standing order puts in place the tactical procedures to be followed by the police if negotiations fail in a public gathering, which exposes the lives of people and property to danger. At the same time the standing order also prescribes the requirements that are to be followed by the police if the use of force becomes unavoidable (South African Police Service, 2004).

Standing Order 262 provides clear provisions for first responders on the scene of a spontaneous gathering. It stipulates the following course of action that first responders must follow: "*The first member who arrives at the scene or venue of an unforeseen (spontaneous) gathering must seek to preserve the peace and to protect and help the community*". It is critical to note that the first actions of first responders should be to preserve the peace and to protect and help the community. Lastly, the standing order provides for police officers to assess the levels of threat and take appropriate action depending on the level of the threat. It

provides certain actions that must be followed to neutralise the threat” (South Africa, 1993; South African Police Service, 2004)

### **Standing Order 251 (Use of firearms)**

This standing order deals with the circumstances under which a member may use his or her firearm and that members should be adequately armed to deal with the prevailing circumstances (South African Police Service, 2013).

### **National Instruction of 2014 Crowd Regulations and Management during Public Gatherings and Demonstrations (draft national instructions)**

Paragraph 12 deals with the briefing of members and emphasises the role of the overall commander or designated officer on, *inter alia*, briefing, instructing all commanders to furnish detailed written plans on their specific tasks and designating video camera operators. Paragraph 14 deals with the execution and use of force in the dispersal of crowds, which must only be conducted by those members of POP trained in crowd management and equipped with relevant crowd management equipment. It further directs that if dispersion is unavoidable, members must try to disperse participants in the direction of a positive attraction point - an area where participants would most likely be willing to move to (SAPS National Instruction, 2014).

### **POP Policy Document on Crowd Management**

According to the preamble to this document, the findings and report of the Goldstone Commission, as well as the provisions of the Regulations of Gatherings Act were used to compile this POP policy document. Paragraph 2 describes the goals of public order policing. Paragraph 3 describes the principles of crowd management (South Africa, 1993).

### **The South African Transport and Allied Workers Union (SATAWU) Constitutional Court Judgement CCT112/11**

In this judgement, handed down on 13 June 2012, the court heard the matter of eight members of the public whose property was damaged at a march organised by SATAWU, which turned violent. They took SATAWU to court and claimed for damages. The High Court held that the union was responsible for the damages suffered by the applicants. The provisions of the Regulations of Gatherings Act were then challenged by SATAWU, who took the matter on review to the Supreme Court of Appeals to examine the liability of marches and demonstrators when violence resulted in damage to property. The Minister of Police joined as the ninth respondent. The Supreme Court upheld the High Court’s decision and dismissed the appeal by SATAWU (Kinnes, 2013).

### **Ministry of Police: Policy and Guidelines: Policing of public protests, gatherings and major events**

This policy and legislative framework provides guidelines for managing and controlling crowds involved in protests, demonstrations, mass marches and major events with a view to minimising provocation, intimidation and violence. It spells out the procedures to be followed by the police when managing and controlling crowds, the legislative framework, as well as the tools required doing public order policing. Other aspects of importance spelt out in the policy include training, use of force, use of equipment, command and control, use of intelligence and the responsibility of conveners or organisers. The policy identifies the following equipment as ‘minimum standard issue’ for public order policing:

- a) body armour and helmets;
- b) shields;
- c) batons;
- d) water cannons (some already procured for crowd control during the 2010 FIFA World Cup);
- e) armoured vehicles (some of the current fleet needs replacement);
- f) specified calibre firearms and ammunition;
- g) communication and video equipment; and
- h) mobile operational centres (supplementing the current fleet) (Ministry of Police, 2011).

In Botswana, Chile and Senegal the police usually use teargas, water cannons and rubber bullets to control public protest action (Ministry of Police, 2011). The author supports National Instructions, (2014) on the inclusion of CN teargas grenades to specific members as part of the standard minimum equipment issued for public order policing in South Africa. According to the Ministry of Police: Policy and Guidelines: policing of public protests, gatherings and major events dated 2011, emphasises is placed on the use of intelligence in the policing of gatherings and public order demonstrations (Ministry of Police, 2011). It should be noted that under the previous regime, the Security Branch of the South African Police (SAP) assisted the old Internal Stability Division (ISD) to police protestors (Kinnes, 2013). In the present day, crowd violence has become something that police are expected to address on a daily basis. The South African Intelligence structures are required to assist the police in identifying threats to public order that some of the participants may be planning. "Despite the fact that the levels of violent gatherings have increased, the Minister of Police issued a directive that police were not allowed to use rubber bullets to disperse demonstrators. This announcement was made on the eve of the Marikana shootings and prohibited police officers from using shotguns with rubber bullets. Shortly thereafter, police were caught off guard at Marikana's Lonmin Mine, which resulted in the deaths of 34 miners when police opened fire on them" (Kinnes, 2013).

In planning for effective crowd control during the 2010 FIFA Soccer World Cup tournament, the SAPS conducted research on different models. They decided to use the French model, which is underpinned by a wider approach than the Belgium model, which was based on a distance approach. The French model drastically cut down on the distance and requires that the police should be literally a few metres in front of the crowd (Ministry of Police, 2011). This provides the opportunity to restrain forward movement of the crowd and the possibility for snatchers to pick on certain individuals who appear to be the most provocative within the crowd. This model also provides for better formation and positioning of platoons in crowd control and redirecting a protest to less significant areas. Training on this model has since been introduced, but never formalised (Ministry of Police, 2011).

### **ANALYSIS OF THE DIFERENT SOUTH AFRICAN COMMISSIONS OF INQUIRY ON PUBLIC ORDER POLICING**

The current policy and legislative framework for public order policing in South Africa was implemented many years after the Cillie Commission of Inquiry and the Goldstone Commission of Inquiry made its recommendation.

The first of such commissions was the Cillie Commission of Inquiry into the Soweto uprisings and riots that occurred on 16 June 1976, where the police were to follow procedures laid out in sections 7 and 8 of the Riotous Assembly Act (No.17 of 1956). These sections of the Act were inadequate as the protests soon proved too large for police to effectively manage without resorting to force. The Commission did not hold the police accountable, and made apologies for the fact that the police were badly prepared for the events that followed. The Commission absolved the role of the police and did not find the police responsible for the

events (Cillie, 1977). The Commission should have judged what could have been done differently to manage the crowd, rather than trying to justify the actions of the police. My observation is that teargas which was primarily used to disperse the crowds in the Soweto riots, was withdrawn from the minimum standard equipment issue for POP members in terms of the Ministry of Police: Policy and Guidelines: policing of public protests, gatherings and major events (Ministry of Police, 2011).

The second major investigation into major policing events was the Goldstone Commission of Inquiry. In 1992, Justice Richard Goldstone appointed an international panel of policing experts to advise on the policing of demonstrations and political protests. The panel became a committee of the Commission and took as its point of departure the unconditional acceptance that non-violent demonstrations are a form of freedom of expression and are a vital part of democracy. The committee made three vital sets of recommendations with respect to the policing of demonstrations. Firstly, it made recommendations relating to the method of negotiation prior to demonstrations occurring. The second set of recommendations relate to when the police should be using force against demonstrations and lastly, it made recommendations relating to recruitment, training, organising and the equipment that public order police should have for handling demonstrations effectively (Heymann, 1992:43). Some of these recommendations were taken up in the Regulation of the Gatherings Act, Act 205 of 1993. According to the author, Justice Richard Goldstone provided legislative and policy guidance on the management of crowds. If the recommendations of the Commission of Inquiry are literally followed, many of the incidents would not turn violent. One important aspect of his recommendation is for organisers/convenors to take responsibility and accountability for the behaviour of the crowds.

The Ngoepe Commission of Inquiry was established after 43 people were killed and many injured as a result of a stampede by fans to get into the Ellis Park Stadium to watch a football match between Kaizer Chiefs and Orlando Pirates in April 2001. The Commission made recommendations on the issues which related to the public order policing of events and the role of the police. Firstly, the event was one that thousands of fans would attend because of the nature of the rivalry between the two biggest football clubs in South Africa. It appears that the police were unprepared for the events that unfolded that April evening. While the stadium catered for 60 000 people, an estimated 90 000 people turned up to watch the match. Secondly, the Commission found that the Public Order Policing unit failed to react timeously and effectively in erecting barbed wire around the section of the fence that was breached by fans wanting to get into the stadium. Thirdly, the Commission found that the Joint Operations Centre, which was set up to coordinate security, was not effective, because no-one was in overall command of the Centre. There were four security companies responsible for security that evening, but no-one assumed the responsibility and authority for commanding the Centre, and neither did the police (Ngoepe Commission Report; 2002:71). The recommendations from this Commission of Inquiry questioned the issue of Joint Operational Command. This recommendation gave rise to Joint Operational Centres under the command of an overall commander supported by operational commanders.

The Farlam Commission is the latest commission to have been appointed by the president to examine police actions, after the killing of 34 mineworkers at the Marikana mine in August 2012. The Commission, supported by experts, was unanimous in its view that automatic rifles and the like have no place in public order policing. Military assault weapons have no place in law enforcement. The immediate withdrawal of R5 rifles was recommended and any replacement weapon system should not be capable of 'automatic fire' mode (Marikana Commission of Inquiry, 2015).

The Commission recommended that a panel of experts be appointed, comprising senior officers of the legal department of the SAPS, together with senior officers with extensive experience in public order policing and specifically including independent experts

in public order policing, both local and international, who have experience in policing crowds armed with sharp weapons and firearms as is presently prevalent in the South African context, to:

- a) revise and amend Standing Order 262 and all other prescripts relevant to public order policing;
- b) investigate where POP methods are inadequate, and world best practices and measures available without resorting to the use of weapons capable of automatic fire;
- c) having done so, to implement a training programme where all public order policing members are extensively and adequately trained in such measures and methods (Marikana Commission of Inquiry, 2015).

The Commission further recommended that in public order policing situations, operational decisions must be made by an officer in overall command with recent and relevant training, skills and experience in public order policing. All radio communications should be recorded and the recordings should be preserved. Plans for public order policing operations should identify the means of communication that SAPS members will use to communicate with each other. Protocol should be developed and implemented for communication in large operations, including alternative mechanisms where the available radio system is such that it will not provide adequate means of communication.

The Commission asked that the SAPS should review the adequacy of the training of the members who use specialised equipment (e.g. water cannons and video equipment), and ensure that all members who may use such equipment are adequately trained to do so. All SAPS helicopters should be equipped with functional video cameras. The SAPS should review the procurement, servicing and training processes that have resulted in expensive equipment purchased by the SAPS, which cannot be used, either adequately or at all. In operations where there is a high likelihood of the use of force, the plans should include the provision of adequate and speedy first aid to those who are injured. There should be a clear protocol which states that SAPS members with first aid training who are on the scene of an incident where first aid is required, should administer first aid. All police officers should be trained in basic first aid. Specialist firearm officers should receive additional training in the basic first aid skills needed to deal with gunshot wounds (Marikana Commission of Inquiry, 2015).

The author is of the view that that the Farlam Commission of Inquiry should have addressed the organisers/convenors responsibility and accountability for the violent behaviour of the crowd.

### **ROLE OF PRIVATE SECURITY IN PUBLIC ORDER POLICING**

The Private Security Industry Regulatory Authority (PSIRA) Act 56 of 2001, has helped legitimise the private security industry since its inception (South Africa, 2001). This reform has been crucial in building public confidence in security industry personnel with whom the police now interact on a daily basis.

Owing to the rise in the number of public/ private partnerships over the last decade, private security personnel are now involved in a vast number of policing operations planned by the SAPS on a daily basis and are regularly engaged in tasks (in a partnership capacity) that have previously been seen as traditionally law enforcement roles (Prenzler & Sarre, 2009).



### **Case study on crowd management and control at the Royal Bafokeng Stadium in Rustenburg**

During 2006, the South African Police Service was reluctant to work with private security personnel. The *Federation Internationale de Football Association* (FIFA) insisted that private security personnel be included in the plan to secure the 2010 FIFA event. Their responsibility during the event was to ensure that property was not damaged and that unruly people were not allowed into venues, at the fan parks and public viewing areas. The role of private security was to ensure that people did not enter these areas with prohibited items. Several private security companies were deployed at various mega event spaces such as within the inner perimeters of the ground (first line after the playfield), while the police were deployed mainly in the outer perimeter areas of the grounds for strategic reasons. The Joint Operational Centre (JOC) coordinated all the activities of law enforcement and private security under the leadership of the SAPS' Joint Operational Commander. Their services contributed greatly to securing the tournament.

During 2006, the researcher was the overall operational commander of the pre FIFA World Cup soccer fixture at the Royal Bafokeng Stadium (Rustenburg), North West Province, South Africa. Both the SAPS and a private security company were deployed at the game. The football game was between Kaizer Chiefs and Manchester United. Private security companies engaged by South African Rugby and Football Union (SARFU) was deployed according to FIFA rules to conduct perimeter security patrols and bag checking together with police officials. The ratio of SAPS to private security was approximately 3:1. This was maintained throughout the match. The number of police personnel was inclusive of uniform personnel, crime intelligence personnel, and detectives on duty at the ground (including those who worked at the mobile charge office, cells and the JOC each day). This figure also included plain clothes 'spotters' who stood in the crowd and directed the police (using microphones) to the troublemakers ahead of any arrests by the SAPS. The police took the lead role in dealing with unruly spectators. None of the private security personnel was seen to confront or engage physically with anyone. The ground and the perimeters were wired with CCTV cameras and monitored by the JOC. All troublemakers were identified through the video footage and attended to by the police. There were about 10 arrests; all were affected by SAPS for counterfeit goods, drunken behaviour and fighting in public. Private security personnel together with the local police station personnel were used to provide access control at turnstiles and patrol outside the grounds with marked private security vehicles. They had radio communication with the JOC and with their own operational commander, while the SAPS had their own operational commander. Private security did not have access to the electronic database. The overall commander of the SAPS was totally in charge of the major event.

Presently, more and more private security personnel are deployed at many sporting events. The number of police personnel being deployed at events is declining, as risk at most events is declining, especially with bag searches that eliminate bottles and alcoholic beverages. Partnerships can be effective in bringing about the desired crime reduction in and around major events.

During strike action, protests and demonstrations, businesses, government departments, mines, universities, schools and home owners employ private security personnel to protect their families, employees and property. This is becoming a trend in South Africa. Such success stories are suggestive of a new era for the pluralisation of street policing where business, communities and criminal justice are converging. According to a Dutch security expert, Ronald van Steden (2007:34), private security companies internationally, are increasingly working with police forces, as well as with government institutions to tackle crime and disorder problems.

The potential risks of employing private security personnel, other law enforcement agencies and statutory bodies to work with the SAPS in Public Order Policing will be the difference in training and protocols within which the SAPS and the private security companies and other law enforcement agencies (Metro, Traffic and other Statutory bodies) operate. The issue of having standardised POP training and protocols should be given priority.

### **CAPACITATING PUBLIC ORDER POLICING**

Service delivery protests, marches, wage strikes, university protests and mob violence such as the xenophobic attacks that emerge frequently, give the SAPS more than enough to cope with (Burger, 2007). These incidents have caused chaos in some parts of the country. The POP unit had to deal with these incidents. Many of the POP members are said to be undertrained and the available numbers are too few to handle the chaos. The human resource levels at Public Order Policing units should be drastically increased to include many more appropriately trained members if they want to function as an effective unit at a provincial and national level (Geldenhuys, 2011).

In view of the recent increase in service delivery protests, SAPS' management has been compelled to reconsider their 2006 approach of decentralising public order policing. Providing a national division will assist with a national command structure, giving direction to the provincial components and making sure that the interests of public order policing in the provinces are catered for. The command structures and relationship with provinces must be clearly delineated; otherwise it creates similar problems with reporting, command and control, especially when it comes to the roles of the provincial commissioners. Many POP units are functioning with outdated technology for video recording events. This cannot effectively be used in a court of law and the SAPS' management must equip all POP units with proper equipment and facilities that will be able to stand up in court. At the moment, SAPS' members are using their own or very old video equipment that cannot capture night-time demonstrations and events (Kinnes, 2013:46-48)

### **OPERATIONAL STRATEGIES FOR PUBLIC ORDER POLICING**

The South African Police Service Strategic Plan 2014-2019 provides a purpose for the programme Visible Policing, which includes Public Order Policing. The purpose statement indicates as follows: 'Enable police stations to institute and preserve safety and security, and provide for specialised interventions and the policing of South Africa's borders'. The Strategic objective reads as follows: 'To discourage all crimes by providing a proactive and responsive policing service that will reduce the levels of priority crimes.'

After working through the SAPS' Strategic Plan 2014-2019, The Medium Term Strategic Framework 2014-2019 and the Annual Performance plan 2016-2017 it was interesting to note that Public Order Policing does not appear to be a strategic priority. None of these documents provide operational strategies for public order policing. In the light of the different ways, municipalities used to handle RGA applications for gatherings (Duncan, 2016), and as seen on the aggregation of incident categories on the IRIS, it would appear as though the SAPS', and POPS' units handle more peaceful gatherings than unrest related violent gatherings (Alexandra, Runciman, & Maruping, 2015:16). Besides the policy and legislative framework as discussed above, there are no operational strategies to guide operational personnel. It is therefore, important that the SAPS is supported with operational strategies for public order policing so that they are able to act in accordance with the policy and legislative framework and the recommendations of the aforementioned Commissions of Inquiry. Since Public Order Policing is one of several objectives falling under one strategic objective according to the SAPS' Strategic plan, it would seem to be more specific to refer to operational strategies for Public Order Policing, rather than strategies.

In the South African context, operational strategies for public order policing must take into account the operational environment and should be based upon sound democratic principles, which do not infringe on the human rights of citizens, civil rights, independence of the judiciary and the rule of law, while simultaneously protecting innocent citizens against any risk that might be posed by the people involved in the gathering. Such strategies must be supported by enabling factors and capacity in order to ensure their success. It has to be acknowledged that the recent past has exposed serious gaps in the existing operational policies, strategies and approaches as applied by the SAPS during public order policing. These gaps widen when SAPS' responses to unplanned protests are contextualised.

The following operational strategies were conceptually analysed to help the police manage and control crowds in a democracy such as that in South Africa:

### **Strategy 1**

#### ***Apply recommendations made by Commissions of Inquiry on structure, processes, functioning and the constraints of the rule of law***

Recommendations by the Cillie Commission of Inquiry 1976, Goldstone Commission of Inquiry 1992, Ngoepe Commission Inquiry 2001 and the Farlam Commission of Inquiry 2012, should be implemented to enhance the POP structure, processes, functioning and constraints of the rule of law. Although SAPS had used much of the recommendations from the Goldstone Commission of Inquiry to draft its Regulation of the Gatherings Act (RGA), the RGA was not effectively implemented (Duncan, 2016). The other reports of the Commission are also of importance for POP unit members and for members at police station level, who are usually the first respondents at a gathering scene. It is not only the recommendations of all the Commissions of Inquiry that need to be considered for implementation, it is important that the scenario outlined in the Commission reports be discussed at briefing, de-briefing and at Training sessions.

### **Strategy 2:**

#### ***Application of the Constitutional Court judgement CCT112/11 of the case of South African Transport and Allied Workers Union (SATAWU) Constitutional Court judgement***

Chapter 2, section 17 of the South African Constitution, provides demonstrators the right to freedom of assembly and association. Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions. The provisions are meant to allow people the right to take part in demonstrations where protestors are unarmed. The Regulation of the Gatherings Act (RGA), Act 205 of 1993, provides for preventive measures, which include cooperation between the police and the convenors in the preparatory stage of strike action, protests and major events including sports. This should be in compliance with the recommendations made by the Goldstone Commission of Enquiry in 1992, relating to the method for negotiating prior to demonstrations occurring. Section 11 (1) and (2) of the Regulations of Gatherings Act places a clear responsibility on marchers and convenors, as well as on each and every person who participates in a gathering, to be held jointly and severally responsible for the damages inflicted on people's property as a result of violence. In the case of the South African Transport and Allied Workers Union (SATAWU) Constitutional Court judgement CCT112/11, the convenors and organisers were held liable for damages caused through violent action. The outcome of this judgement clearly has consequences for any organisation that organises and convenes marches, gatherings and demonstrations. It provides that organisers and convenors of marches will have to take the additional step of making sure that marchers stick to agreements and do not damage any property along the route, otherwise they could be held liable. According to Duncan (2016), there is a tendency at Municipalities not to literally follow the RGA. None of the eleven Municipalities studied by Duncan and her team of researchers have been complying with the

RGA. In many instances the RGA is manipulated to stop the overflow of protests spilling onto the streets. Many of the reports from the Municipalities and the Police IRIS show that the protests have taken place peacefully and uneventfully, which is not the image portrayed on the mass media. Municipalities have set different standards from the RGA. Municipalities consider these applications from convenors as permission seeking exercises which can be granted or denied. Many convenors try to avoid giving notification and paying hefty deposits to municipalities, so they fall in line with the suggestions made by the Municipalities (Duncan, 2016).

### **Strategy 3:**

#### ***Set up a Joint Operational Centre (JOC)***

The JOC should put together a Joint Operational Centre Command (JOCCOM) structure, including the convenor or organiser of the major crowd event, so that joint decisions may be taken together with all the stakeholders in the event of deviations. The importance of the JOC and the JOCCOM, its non-functionality and the use of experienced personnel as operational commanders at the JOC was emphasised by both the Ngepe Commission of Inquiry, 2001 and the Farlam Commission Inquiry 2012 (Ngepe Commission Report; 2002; Marikana Commission of Inquiry, 2015).

### **Strategy 4:**

#### ***Set up a Joint Intelligence Structure (JOINTS)***

Information and intelligence should be obtained on the gathering and on all individuals who pose a threat of violent action. These individuals can be easily sifted out in accordance with their capabilities to carry out a specific threat. One of the most possible methods is the use of covert operations - that is, infiltration of police officers into crowds (known supporters), groups, teams or gangs. This information is said to be most accurate and useful in decision-making. In the case of major events, 'spotters' may be connected to particular crowds, groups, teams or gangs. These officers will be able to enter into close relations with crowds (known supporters), groups, teams or gangs. Critical to this strategy are information sources such as criminal records and databases. All this information should be managed by the Joint Intelligence Structures (JOINTS) at National (Natjoints), Provincial (Provjoints) and Local levels (Locjoints). The JOINTS should remain part of the JOC. This system will help coordinate all intelligence for the purpose of management and control, brief intelligence officers to collect missing information/ intelligence, collate and analyse the intelligence for dissemination and activation by operational personnel. The JOINTS will provide intelligence products such as intelligence alerts, profiles, tactical and strategic analysis reports for joint decision making.

### **Strategy 5:**

#### ***Response teams (military, medics, hospitals, fire brigade and police reinforcement to be put on standby)***

Decisions on the most appropriate police action should be decided by the JOCCOM. Police station personnel should be put on standby as reinforcement units for reaction to violent behaviour. The fire brigade should be on standby to attend to fires. All other support services such as paramedics and hospitals should be on standby. The injured should not be made to wait long before medical assistance is received. The late arrival of paramedics at the Marikana shooting incident was criticised by the Farlam Commission of Inquiry (Marikana Commission of Inquiry, 2015). The army should be put on standby, in the event of a threat to the constitutional order, as they may be used for the maintenance of law and order in support of the SAPS, when there is a failure to uphold law and order by the SAPS (South Africa, 2002). This should be part of the planning as a precautionary measure which is still subject to

the decision of the President of South Africa. Lessons were learned in 1913 and 1914 that the presence of the army serves as a deterrent to a violent crowd who become threat to the Constitutional order.

### **Strategy 6:**

#### ***Conduct security risk assessments***

The SAPS is aware that every operational plan has objectives and every objective carries risks which ought to be managed (SAPS National Instruction, 2014). Organisations should provide policy, procedures and structured processes to address inherent risks. This will enhance the position of public order policing units in achieving their outcomes. Every operational decision implies some accompanying risk and pertinent opportunity. Internal controls should be part of the organisational governance structure put in place by management to support the operational objectives. It is therefore important that management provides a budget for the risk management plan (ISO 2009). Risk assessment officers should be used to conduct a risk assessment of any planned or unplanned gathering, prepare a plan, make all possible inquiries about the subject and request any assistance deemed necessary. At unplanned (spontaneous/unforeseen) gatherings the risk assessment process should be started by the first responder who arrives at the gathering or by the person who receives prior information/ intelligence on the gathering (SAPS National Instruction, 2014).

The risk assessment report will provide the overall commander of the operation with the tactical options he may deploy in specific situations. Security risk assessments should be conducted prior to and concurrent with the gathering to help identify - through the application of technical systems, coverage of public spaces with CCTV cameras, use of video recordings and record clerks – and record events in field journals. Psychologists should be used to determine the mood and emotions of the crowd. The police should immediately react on the advice of the psychologist by timeously and effectively erecting barbed wire around the crowd with sufficient access control points. Such access control should be managed by private security guards together with the police (Ngoepe Commission Report; 2002). No additional person/s should be allowed into the cordoned off area. On the arrival of the Public Order Policing Unit, the local police station crime prevention personnel should police the outer perimeter area and hand over the inner perimeter area to the POP unit. Response teams should be available to respond to risks identified by spotters (informers within the crowd).

### **Strategy 7:**

#### ***Be proactive to a culture of violence***

Researchers have found that existential circumstances such as increased depression, substance abuse, personality disorders, antisocial behaviours and increased aggression and violence correlate with abnormality of the mind and mental health problems giving rise to violent behaviour (Thomas, 2007:418). Over the past three decades, an increasing body of knowledge has shown that our current approach of doing nothing or very little to assess and provide treatment to family members affected by family violence is seriously flawed (Thomas, 2007:422). To put an end to violent behaviour, will require that immediate counselling is provided to the family members when a complaint of family violence is received. We need to develop a response that identifies and counters the problem as soon as possible. This includes parenting training, services and social support for women and children, and changing community attitudes to gender inequality and all forms of Intimate Partner Violence (IPV), including gender-based violence. There should be integrated support structures, which should include different disciplines to ensure that incidents of violence are identified, that health workers understand the law related to violence, that those affected by violence are provided with psychological support, and that long-term programmes to work on prevention of violence in communities are established. Prevention or early intervention within the family unit or extended family is more influential than years of individual therapy

later in life. The media has a crucial role to play by keeping the issue on the nation's agenda, even when the people involved are not celebrities and by creating a public platform to discuss the underlying motivations and attitudinal drivers of the behaviour and the many insidious ways in which social norms support the perpetrator (Kalideen, 2014:8). This intervention will support violent individuals to enable them to manage their violent behaviour when participating in any protest; strike; march; demonstration or major event.

### **Strategy 8:**

#### ***Soft skills and negotiation skills to be used by negotiators***

Soft skills (communication, listening, emotional intelligence) and negotiation skills should be used by police commanders to negotiate with organisers, convenors and other stakeholders. This being part of the distance approach adopted by the Belgium police, would work well, especially where mayors, councillors and managers do not want to talk to organisers or convenors of gatherings, especially when it comes to demanding that they accept memorandums from marching groups. In most cases, the presentation of demands in a memorandum does not automatically lead to violence. However, there are moments when mayors and councillors refuse to face demonstrators and this sometimes inflames situations, angering demonstrators, which can then lead to violence. Mayors and councillors should be made to accept responsibility for demonstrations becoming violent when they could have averted it in the first place by accepting memorandums from demonstrators. The police are always caught in the middle between reluctant councillors and organisers of gatherings and an impatient crowd that is intent on using any means to further their aims.

### **Strategy 9:**

#### ***Public Order Police training***

According to the National Instruction, (2014), first responder training is presently suggested for station commanders and their command structure, as well as regular maintenance exercises to POP unit members. The extent to which this is being implemented is questionable. The training of POP members should follow an integrated approach and not lean too much on one specific country model such as the Belgium distance approach model. The training should also consider some operational aspects from the French Crowd Management model, which was used for operational planning during the 2010 FIFA World Cup. While experiences from the operational planning of the SAPS relating to major events such as the 2010 FIFA Soccer World Cup are not specifically related, it does provide some platform and opportunities towards addressing training gaps in strengthening crowd management approaches. Similarly, the involvement of the SAPS in peace-keeping operations towards a peace accord in Sudan, can serve as a basis for enriching training initiatives towards effective crowd management (Ministry of Police, 2011).

The POP training model must be re-introduced as specialised training in line with the spirit of the Constitution and the SAPS' Act. To ensure that police fully apply this model, training in operational safety tactics such as first aid training should be part of the training curriculum. In critical situations where injury results, aftercare and medical attention must be provided by trained police first aiders prior to the arrival of the paramedics (Marikana Commission of Inquiry, 2015).

Since we derive from a culture of violence, generated during the apartheid era, it is evident from our recent experiences that public order policing in South Africa is unique and different from the international world. We need to consider different epistemologies to design and develop a curriculum to satisfy our tactical options.

## RECOMMENDATIONS

It is suggested that the SAPS give effect to existing laws and policies, as well as the recommendations made by the different Commissions of inquiry on public order policing and thereby improve their implementation.

## CONCLUSION

In order to give impetus to and ensure compliance with the Bill of Rights, the Constitution, legislative framework, policies, Commissions of Inquiry and international standards, the SAPS must urgently review its current dispensation and operational approach in public order policing. Smarter and more accountable public order policing is the answer for the reduction of violence in the management and control of crowds in the 21<sup>st</sup> century.

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